

REMARKS

I. Introduction

Claims 12, 13 and 16-24 are now pending in the present application after cancellation of claims 14 and 15. Claims 12 and 22 have been amended. Applicants hereby respectfully request further examination and reconsideration of the application.

Applicants note with appreciation the acknowledgment of the claim for foreign priority, and the indication that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO 1449 paper and cited references.

II. Objection to the Specification

The specification was objected to because the word "Figure" should be deleted from the page that contains the abstract. It is noted that the Substitute Specification received by the Office on July 6, 2005, does not include the word "Figure" on the page that contains the abstract. Withdrawal of the objection is respectfully requested.

Rejection of Claims 12-24 under 35 U.S.C. §102(b)

Claims 12-24 were rejected under 35 U.S.C. §102(b) as being anticipated by "Vehicle Detectors," 1998 ("Kon"). Claim 12 has been amended to incorporate the features previously recited in claims 14 and 15 (which claims are now cancelled). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

In order to reject a claim under 35 U.S.C. §102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent that the Examiner may be relying on

the doctrine of inherent disclosure, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherence of that result or characteristic.

Initially, Applicants note that the document produced by the Examiner and cited as “Vehicle Detectors,” 1998 (“Kon”), **does not have any publication date on the document, and there is no way to verify the actual publication date of the cited document** (i.e., whether the cited document is a valid prior art against the present application). To the extent the Examiner indicates on the “Notice of References Cited” form (PTO-892) that the “Kon” reference was obtained from the Internet, the Examiner is kindly requested to provide the information required for citing “electronic documents” (as per MPEP 707.05(e)). **The Examiner’s current citation of “Kon” is inadequate to establish “Kon” as a valid prior art reference (particularly since the document has no publication date and the Examiner has not even provided the URL for the website from which the document was obtained)**, and Applicants note that **the present amendment and the accompanying arguments presented below are conditioned on the assumption that the Examiner will be able to verify the actual publication date of the “Kon” document**. Should the Examiner fail to verify the actual publication date of the “Kon” document (or if the actual publication date is such that “Kon” is definitively not a valid prior art against the present application), Applicants reserve the right to withdraw the amendment presented herein (since the amendment presented herein would not be necessary).

Claim 12 has been amended to incorporate the features previously contained in claims 14 and 15, i.e., amended claim 12 recites, in relevant parts, “a first surroundings sensing device for providing longitudinal value-optimized measured values; a second surroundings sensing device for providing object lateral extension-optimized measured values; and an analyzer device for . . . using the measured values of both the first and second surroundings sensing devices for at least one of (a) object identification and (b) triggering of at least one of

(1) the at least one deceleration device and (2) the at least one output-determining actuator element of the propulsion system; wherein one of: (a) the measured values of the second surroundings sensing device are used for at least one of verification and provision of additional information in analyzing the measured values of the first surroundings sensing device; and (b) the measured values of the first surroundings sensing device are used for at least one of verification and provision of additional information in analyzing the measured values of the second surroundings sensing device.” Claim 22 has been amended to recite substantially similar features as the above-recited features of claim 12. In support of the rejection, the Examiner contends that the following sections of Kon teaches the above-recited claimed features previously contained in claims 14 and 15: page 52, section 1.3; page 63, third paragraph; page 87-88, section 3.17; and page 64, section 2. However, nothing in the cited sections of “Kon” even remotely suggests the above-recited claimed features, as explained in detail below.

First, page 52, section 1.3 of “Kon” merely discusses active infrared detectors, but there is not a shred of suggestion that “one of: (a) the measured values of the second surroundings sensing device are used for at least one of verification and provision of additional information in analyzing the measured values of the first surroundings sensing device; and (b) the measured values of the first surroundings sensing device are used for at least one of verification and provision of additional information in analyzing the measured values of the second surroundings sensing device.” Second, page 63, third paragraph of “Kon” discusses a “multiple detector system” in which “the timing between successive activation of the detectors” is observed by a central controller, but this section of “Kon” similarly fails to suggest anything about the measured values of one sensing device being used “for at least one of verification and provision of additional information in analyzing the measured values” of another sensing device. Third, page 87-88, section 3.17 of “Kon” discusses “drive-by-wire systems,” but this section does not suggest anything about the measured values of one sensing device being used “for at least one of verification and provision of additional information in analyzing the measured values” of another sensing device. Fourth, page 64, section 2 of “Kon” discusses “a sensor to detect slowing and a sensor to detect a stationary vehicle in the left turn position,” but there is no suggestion of the measured values of one sensing device being used “for at least one of verification and

provision of additional information in analyzing the measured values" of another sensing device.

Independent of the above, even if one assumes for the sake of argument that the Examiner is correct in contending that "having more than one sensing device falls under design choice" (as asserted by the Examiner on p. 3 of the Office Action, with which assertion Applicants disagree), there is clearly no suggestion in "Kon" that the multiple sensing devices should be limited in the claimed manner of claims 12 and 22, i.e., there is no suggestion of the measured values of one sensing device being used "for at least one of verification and provision of additional information in analyzing the measured values" of another sensing device.

For at least the foregoing reasons, claims 12 and 22, as well as their dependent claims 13, 16-21 and 23-24, are allowable over "Kon."

Conclusion

In view of the foregoing, it is respectfully submitted that pending claims 12, 13 and 16-24 are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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